
Appeal Decision

Site visit made on 23 November 2021

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/T5150/C/21/3274570

8 Sidmouth Road, London NW2 5JX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Abbas Shirafkhan against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 8 April 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the formation of a hardstanding to the front of the premises.
AND Without planning permission the erection of high fences, high brick pillars, and metal gates to the front of the premises.
 - The requirements of the notice are:
STEP 1 Remove the hardstanding to the front of the premises.
STEP 2 Demolish and remove the high fences, high brick pillars, and metal gates to the front of the premises.
STEP 3 Remove all associated debris, items and materials arising from that demolition and removal, and remove all materials associated with the unauthorised development from the premises.
STEP 4 Re-instate the front of the premises to its former condition before the unauthorised works were carried out, as shown in PHOTOGRAPHS A, B, and C, attached to the notice.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. In accordance with section 174 (2A) of the Town and Country Planning Act 1990 (as amended) the appellant was not permitted to make an appeal on ground (a) since they applied for planning permission for the development and the Council then issued the enforcement notice before the time to determine the application had expired.
3. Where there is no appeal under ground (a) consequently there is no deemed application for planning permission, as such there can be no consideration of the planning merits of the development under ground (f). The only consideration is whether the requirements exceed what is necessary to achieve the identified purpose.

The appeal on ground (f)

4. An appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any injury to amenity resulting from the breach.
5. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first s173(4)(a) is to remedy the breach of planning control which has occurred. The second s173(4)(b) is to remedy any injury to amenity which has been caused by the breach.
6. In this case the enforcement notice requires the front of the premises to be restored to its former condition. As such, I find that its purpose is to remedy the breach of planning control that has occurred. That purpose can only be achieved by restoring the front of the premises to its former condition.
7. The appellant has not suggested any lesser steps and since the requirements would do no more than seek to achieve the purpose of the notice - to remedy the breach of planning control, they are not excessive. The appeal on ground (f) therefore fails.

Conclusion

8. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Felicity Thompson

INSPECTOR